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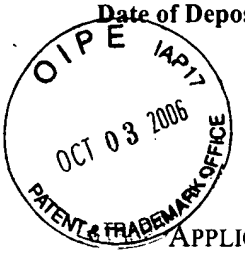


Attorney Docket No. 18989-033

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Richard S. Blumberg

SERIAL NUMBER: 10/808,052 EXAMINER: Andrew D. Kosar

FILING DATE: March 24, 2004 ART UNIT: 1654

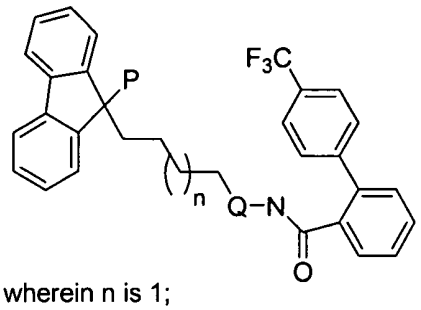
FOR: METHODS OF INHIBITING INFLAMMATION

October 3, 2006
Boston, Massachusetts

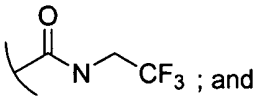
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

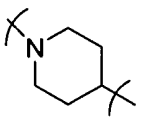
RESPONSE TO RESTRICTION REQUIREMENT

This is a response to the August 1, 2006, Restriction Requirement in the above-identified application. The Applicant elects the invention of Group IV, claims 1-8, 16, 17, 19-23, 34-37. 40-46, 49, 50, 52-58, 60-66, 68-73 and 75-79, drawn methods of inhibiting gastrointestinal inflammation with an MTP inhibitor. In response to the species election the applicant elects the species having the Formula:



wherein n is 1;

wherein P is  ; and

wherein Q is 

This election is made with traverse. The traverse is on the basis that the inventions of Groups I-VI should be prosecuted together. Applicants submit that a search of prior art relevant to the patentability of invention Group IV (gastrointestinal inflammation) necessarily encompasses the invention of Groups I-III, V, and VI (skeletal, hepatic, dermatological, pulmonary and neurological inflammation, respectively).

MPEP § 808.02 requires that the Examiner explain why there would be series burden on the Examiner if restriction is not required. To establish a series burden the Examiner must show by appropriate explanation either (a) separate classification thereof, (b) separate status in the art when they are classifiable together or (c) a different field of search. The Applicant asserts that the Examiner has not met these criteria for the reasons discussed below.

First, the inventions of Group I-VI have all been classified together by the Examiner as belonging to class 514 subclass 2.

Second, while classified together, the Examiner has not shown a separate status in the art. According to the Examiner, the inventions of Group I-VI do not overlap in scope as the methods would have different resulting effects and practicing one method would not be practicing the other. The Applicant disagrees. The methods of the invention have one effect--inhibiting inflammation. Inflammation is a response of body tissues to injury or irritation; characterized by pain and swelling. The response is similar regardless of the tissue undergoing the inflammation.

The steps of the methods are identical, the mechanism is identical (activation of a CD1-restricted T-cell) and the class if compounds used to reduce CD1-mediated inflammation is identical regardless of tissue type. Therefore practicing one method for one tissue type is exactly the same as practicing it for another tissue type.

Third, the Examiner has not shown that each invention would require a different field of search. In fact, the initial search conducted by the Examiner resulted in the identification of art relating to the uses of a specific MTP inhibitor for atherosclerosis, a disease with an inflammatory component. This demonstrates that a different field of search is not necessary to identify art related to inflammation of various tissues.

Lastly, in accordance with MPEP§ 808.02, as the classification and the field of search is the same no reason exists for dividing among independent or related inventions. Accordingly, the Applicant asserts that the restriction requirement is improper and requests the Examiner examine the inventions of Groups I-III, V, and VI together with Group IV.

The Response to the Restriction Requirement is due with a two month extension of time on or before November 1, 2006.

No additional fees are believed to be due. However, the Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311 (Reference No. 18989-033).

Respectfully submitted,

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